

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

UNITED STATES OF AMERICA,

Case No. 3:19-cr-00010-MMD-WGC

Plaintiff,

ORDER

v.

SAUD A. ALESSA, *et al.*,

Defendants.

Defendants Saud A. Alessa, Jeffrey Bowen, and Jackie Hayes were indicted on one count of conspiracy to defraud the United States for the purpose of impeding the lawful functions of the Internal Revenue Service. (ECF No. 1.) Alessa was also indicted on one count of tax evasion and two counts of filing false tax returns. (*Id.*) Hayes pleaded guilty (ECF No. 353), and a jury found Bowen and Alessa guilty on the counts they were indicted on (ECF No. 430). The Court has since sentenced all three Defendants. (ECF Nos. 457, 489, 490 (judgments of conviction).) Before the Court is Alessa's motion for bail pending appeal or in the alternative to stay execution of his sentence pending appeal.¹ (ECF No. 487 ("Motion").) Because the Court does not find that the two bases presented in Alessa's Motion raise substantial questions of law or fact likely to result in reversal or an order for a new trial—and as further explained below—the Court will deny the Motion.

But first, the Court addresses a preliminary matter. Alessa alternatively asks that the Court grant him the relief he seeks in his Motion under the All Writs Act, 28 U.S.C. § 1651(a), in the event the Court does not grant him relief under 18 U.S.C. § 3141(b). (ECF No. 487 at 1, 30.) However, as the government points out in its response (ECF No. 499 at 2 n.1), "[w]hen a statute specifically addresses the particular issue at hand, it is that

¹The government filed a response. (ECF No. 499.) Alessa did not file a reply, though the time for doing so has elapsed.

1 authority, and not the All Writs Act, that is controlling.” *Perez v. Barr*, 957 F.3d 958, 967
2 (9th Cir. 2020) (citation omitted). The Court accordingly analyzes Alessa’ Motion under
3 18 U.S.C. § 3141(b) only.

4 And while there are several factors the Court must consider under 18 U.S.C. §
5 3141(b), the government does not dispute that Alessa can satisfy several of them, instead
6 focusing its argument on the fourth factor—whether “the appeal raises a substantial
7 question of law or fact likely to result in reversal [or] an order for a new trial.” (ECF No.
8 499 at 4.) The Court accordingly assumes without deciding that Alessa can satisfy the
9 first three 18 U.S.C. § 3141(b) factors, and, like the government, focuses on the fourth
10 factor.

11 As to that fourth factor, Alessa presents two categories of rulings that he contends
12 raise substantial issues of law or fact likely to result in reversal or an order for a new trial.
13 Alessa specifically argues that the Court erred when it: (1) rejected “his assignment of
14 income instruction along with expert testimony that would have supported his defense
15 and an instruction on the definition of taxable income[;]” and (2) prevented “the defense
16 from calling primary government witness Ms. Hayes’ prior counsel Mr. Molezzo, who
17 would have substantially impeached Ms. Hayes’ testimony by proving she lied on the
18 stand and while under oath in previous court proceedings.” (ECF No. 487 at 3.)

19 The Court does not find that its rulings as to either category of issues raise
20 substantial issues of law or fact likely to result in reversal or an order for a new trial. As to
21 the assignment of income category of issues, the Court repeatedly—and correctly—
22 addressed and rejected the same arguments that Alessa raises in his Motion before,
23 during, and after the trial. (ECF No. 487 at 11-22 (making the arguments); *see also* (ECF
24 No. 316 at 4-7 (granting the government’s motion to exclude the testimony of Patricia A.
25 Cain); ECF No. 425 at 221-236, 243-49 (mentioning that the Court denied a motion for
26 reconsideration regarding its decision to exclude Prof. Cain’s testimony, entertaining
27 more argument on Alessa’s proposed jury instruction, and rejecting that proposed
28

1 instruction).) The Court denies the Motion to the extent based on its assignment of income
2 rulings for the reasons provided in those prior rulings.

3 As to Mr. Molezzo, Defendant Bowen raised the same argument in his motion for
4 bail or a stay of imposition of his sentence pending his appeal. (ECF No. 473.) The Court
5 denied Bowen's motion based on that argument. (ECF Nos. 485 (sentencing minutes);
6 *see also* ECF No. 507 (sealed) at 121-27 (hearing transcript).) Alessa's argument is
7 substantially the same as Bowen's. (ECF No. 487 at 23-28.) The Court rejects Alessa's
8 argument for the same reasons it rejected Bowen's. (ECF No. 507 (sealed) at 121-27.)

9 Alessa finally requests in the alternative that the Court stay the execution of his
10 sentence pending his appeal. (ECF No. 487 at 29.) For the reasons provided above, the
11 Court does not find that Alessa has made a strong showing he is likely to succeed on the
12 merits of his appeal.

13 It is therefore ordered that Alessa's motion for bail pending appeal or in the
14 alternative to stay execution of his sentence pending appeal (ECF No. 487) is denied.

15 DATED THIS 9th Day of May 2022.

16
17 

18 MIRANDA M. DU
19 CHIEF UNITED STATES DISTRICT JUDGE
20
21
22
23
24
25
26
27
28